

<p style="text-align: right;">Page 62</p> <p>1 L. Eber</p> <p>2 A. If that's what it says, yes.</p> <p>3 Q. What was Southern Wine and Spirits</p> <p>4 Upstate Inc.?</p> <p>5 A. That would be their upstate business</p> <p>6 as opposed to Metropolitan New York.</p> <p>7 Q. Earlier you referred to a company</p> <p>8 called Southern Glazer.</p> <p>9 What is that?</p> <p>10 A. They merged with Glazer out of Dallas,</p> <p>11 Texas.</p> <p>12 Q. When did that merger occur?</p> <p>13 A. A couple of years ago I believe.</p> <p>14 Q. But for all intents and purposes in</p> <p>15 terms of your relationship with that, with the</p> <p>16 Southern company, the merger did not, with Glazer</p> <p>17 did not affect that relationship; correct?</p> <p>18 A. No.</p> <p>19 Q. How was the consulting agreement</p> <p>20 Exhibit 27 negotiated?</p> <p>21 A. You have to ask a lawyer. Probably</p> <p>22 Pat Dalton.</p> <p>23 Q. So Pat Dalton negotiated this for you?</p> <p>24 A. I would -- I believe so. I can't</p> <p>25 think of anyone else.</p>	<p style="text-align: right;">Page 64</p> <p>1 L. Eber</p> <p>2 Q. Why was it limited to five years?</p> <p>3 A. That's what they would give me because</p> <p>4 I needed a job and they had worked with us to help</p> <p>5 us stay out of bankruptcy and I felt an obligation</p> <p>6 to work with them and they thought that was a fair</p> <p>7 amount of time and gave me the time to set up a</p> <p>8 structure for them of lobbyists with the state. I</p> <p>9 am a lobbyist myself and to represent them in the</p> <p>10 legislature with the State Liquor Authority and</p> <p>11 the Governor's Office.</p> <p>12 Q. Why do you say that you needed a job?</p> <p>13 A. Everyone needs a job. We lost the</p> <p>14 business. We lost everything in New York.</p> <p>15 Q. You still had a job with Eber</p> <p>16 Connecticut; correct?</p> <p>17 A. Eber Connecticut was not in very good</p> <p>18 condition at that time.</p> <p>19 MR. BROOK: Let's go ahead and get</p> <p>20 another exhibit going here. Mark this as</p> <p>21 Plaintiffs' 28.</p> <p>22 (Plaintiffs' Exhibit 28, a series of</p> <p>23 W-2s that were produced by the parties in</p> <p>24 discovery Bates numbers EB 00021420 through</p> <p>25 428, marked for identification, as of this</p>
<p style="text-align: right;">Page 63</p> <p>1 L. Eber</p> <p>2 Q. Did you pay Pat Dalton for negotiating</p> <p>3 this agreement yourself?</p> <p>4 A. I believe he billed the company.</p> <p>5 Q. And why did he bill the company for</p> <p>6 doing work to negotiate an agreement between you</p> <p>7 personally?</p> <p>8 A. I don't remember who paid him.</p> <p>9 Q. But is it fair to say you don't</p> <p>10 remember paying Pat Dalton yourself; correct?</p> <p>11 MR. RAMSEY: Form.</p> <p>12 A. I just don't remember. It's possible</p> <p>13 but I don't remember who paid him.</p> <p>14 Q. And just to be totally clear, if you</p> <p>15 look at the last page 9, what's listed page 9 of 9</p> <p>16 that's your signature; correct? There are</p> <p>17 two-page 9s.</p> <p>18 MR. RAMSEY: (Indicating.)</p> <p>19 A. Yes, the first one.</p> <p>20 Q. That is your signature?</p> <p>21 A. Yes.</p> <p>22 Q. How was -- let's step back.</p> <p>23 So this was an agreement originally</p> <p>24 drafted with a five year term; correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 65</p> <p>1 L. Eber</p> <p>2 date.)</p> <p>3 Q. Plaintiffs' 28 is a series of W-2s</p> <p>4 that were produced by the Eber parties in</p> <p>5 discovery bearing Bates numbers EB 00021420</p> <p>6 through 428.</p> <p>7 Do you recognize the documents that</p> <p>8 are copied off of this exhibit?</p> <p>9 A. Yes.</p> <p>10 Q. What are they?</p> <p>11 A. W-2s.</p> <p>12 Q. And do you see on the first page it</p> <p>13 has W-2s for the years 2007, 2008 and 2009?</p> <p>14 A. Mm-hmm.</p> <p>15 MR. RAMSEY: Yes?</p> <p>16 Q. Is that a yes?</p> <p>17 A. Yes.</p> <p>18 Q. And so is it correct that according to</p> <p>19 this exhibit Eber Brothers Wine and Liquor Corp.</p> <p>20 paid you 303,021 dollars for the year 2007?</p> <p>21 A. Yes.</p> <p>22 Q. So that was the year when the</p> <p>23 consulting agreement we were just looking at was</p> <p>24 executed; correct?</p> <p>25 A. Yes.</p>

17 (Pages 62 - 65)

<p style="text-align: right;">Page 146</p> <p>1 L. Eber</p> <p>2 the stock?</p> <p>3 A. I don't know.</p> <p>4 Q. Was it your understanding as a result</p> <p>5 of the termination of the Allen Eber Trust and</p> <p>6 distribution of assets by Canandaigua National</p> <p>7 Bank you yourself became a voting common</p> <p>8 shareholder of Eber Brothers and Co., Inc.?</p> <p>9 MR. RAMSEY: Form.</p> <p>10 A. I never -- I don't know. I don't</p> <p>11 remember conversations on that. I just don't</p> <p>12 remember.</p> <p>13 Q. On this document here in this letter</p> <p>14 it refers to copies of stock powers being sent and</p> <p>15 then I will just read the whole paragraph into the</p> <p>16 record so we are all clear. It says "Enclosed</p> <p>17 please find your client's respective copies of the</p> <p>18 stock powers transferring their shares of Eber</p> <p>19 Brothers and Co., Inc. pursuant to Canandaigua</p> <p>20 National Bank and Trust Company's distribution</p> <p>21 schedule. As the bank never had possession of the</p> <p>22 company's stock book or other corporate documents</p> <p>23 and despite requests, the bank has not been</p> <p>24 provided with the same. We were required to</p> <p>25 complete these transfers via these stock powers as</p>	<p style="text-align: right;">Page 148</p> <p>1 L. Eber</p> <p>2 company?</p> <p>3 A. I am not involved. I don't know.</p> <p>4 Q. Whose responsibility was it for Eber</p> <p>5 Brothers and Co., Inc. to take care of the stock</p> <p>6 book registration of stockholders and issuance of</p> <p>7 stock certificates?</p> <p>8 A. I can't remember.</p> <p>9 Q. Do you know where the stock book for</p> <p>10 Eber Brothers and Co., Inc. currently is?</p> <p>11 A. No.</p> <p>12 Q. Is it your understanding that the</p> <p>13 stock book for Eber Brothers and Co., Inc. was</p> <p>14 misplaced for a period of time?</p> <p>15 A. I do not know.</p> <p>16 MR. BROOK: Let's go to the next</p> <p>17 Exhibit 39.</p> <p>18 (Plaintiffs' Exhibit 39, a four-page</p> <p>19 letter dated November 5, 2018 by Paul</p> <p>20 Keneally addressed to Magistrate Judge</p> <p>21 Katherine Parker, marked for identification,</p> <p>22 as of this date.)</p> <p>23 Q. Exhibit 39 is a four-page letter dated</p> <p>24 November 5, 2018 by Paul Keneally addressed to</p> <p>25 Magistrate Judge Katherine Parker.</p>
<p style="text-align: right;">Page 147</p> <p>1 L. Eber</p> <p>2 opposed to issuing new stock certificates. We are</p> <p>3 currently retaining the original stock powers</p> <p>4 which I have affixed to each original stock</p> <p>5 certificate that the bank received when it became</p> <p>6 successor co-trustee. We will continue to do so</p> <p>7 unless and until such time as we are advised as to</p> <p>8 whom these originals should be provided given the</p> <p>9 apparent inability to locate the company's stock</p> <p>10 book and affiliated records. It is my</p> <p>11 understanding that the securities were transferred</p> <p>12 to your client's respective financial institutions</p> <p>13 on September 29th and that the remaining assets</p> <p>14 were electronically transferred last week as</p> <p>15 well."</p> <p>16 Did I read that correctly?</p> <p>17 A. Yes.</p> <p>18 Q. And so do you know what this letter</p> <p>19 was referring to about the apparent inability to</p> <p>20 locate the company's stock book?</p> <p>21 A. What it says there. They couldn't</p> <p>22 find it.</p> <p>23 Q. What is a stock book?</p> <p>24 A. I don't know.</p> <p>25 Q. How does new stock get issued by a</p>	<p style="text-align: right;">Page 149</p> <p>1 L. Eber</p> <p>2 Do you recognize this document?</p> <p>3 A. I don't remember seeing it. Yeah, I</p> <p>4 probably did. I probably was copied and got a</p> <p>5 copy of it. I just don't remember.</p> <p>6 Q. Paul Keneally is the lawyer for you,</p> <p>7 your daughter and the Eber companies in this</p> <p>8 litigation; correct?</p> <p>9 A. Yes.</p> <p>10 Q. And I would like to draw your</p> <p>11 attention to paragraph 3 on this first page. I</p> <p>12 will read it into the record. Mr. Keneally wrote</p> <p>13 to the court in response to a letter by me "It is</p> <p>14 not true that the corporate stock register was</p> <p>15 quote lost. The register is maintained by the</p> <p>16 corporate secretary Wendy Eber who is solely</p> <p>17 responsible for registering valid transfers of</p> <p>18 stock in it. Neither the Allen Eber Trust,</p> <p>19 defined as the trust, nor CNB as one of its</p> <p>20 trustees has any responsibility or role in</p> <p>21 registering stock transfers. The corporate</p> <p>22 secretary never told CNB that the register was</p> <p>23 lost."</p> <p>24 Did you see that?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 150</p> <p>1 L. Eber</p> <p>2 Q. And did you authorize Mr. Keneally to</p> <p>3 make this statement?</p> <p>4 MR. RAMSEY: Form.</p> <p>5 A. He is my lawyer.</p> <p>6 Q. And does that refresh your</p> <p>7 recollection as to whose responsibility it was to</p> <p>8 deal with the stock book and issue stock</p> <p>9 certificates on behalf of Eber Brothers and Co.,</p> <p>10 Inc.?</p> <p>11 MR. RAMSEY: Form.</p> <p>12 A. If that's what he says that's what it</p> <p>13 is. He represents me.</p> <p>14 Q. So do you know how looking back at</p> <p>15 Exhibit 38, do you know why the lawyers for</p> <p>16 Canandaigua National Bank appeared to believe that</p> <p>17 the stock book was not able to be located as of</p> <p>18 October 2017?</p> <p>19 A. No.</p> <p>20 Q. And to the best of your knowledge, has</p> <p>21 Wendy Eber always been in possession of the</p> <p>22 company's stock book?</p> <p>23 MR. RAMSEY: Form.</p> <p>24 A. I don't know.</p> <p>25 MR. BROOK: Let's do two more</p>	<p style="text-align: right;">Page 152</p> <p>1 L. Eber</p> <p>2 daughter Wendy as well as you?</p> <p>3 A. He was my lawyer.</p> <p>4 Q. Now do you see the second paragraph</p> <p>5 here. It refers to first two words say my</p> <p>6 clients.</p> <p>7 Do you see that plural?</p> <p>8 A. Yes.</p> <p>9 Q. Who else --</p> <p>10 A. It would be my daughter.</p> <p>11 Q. I would like to point your attention</p> <p>12 now to the substance of the first paragraph which</p> <p>13 I will also read for the record. "Dear Lorisa, I</p> <p>14 trust you received my e-mail of yesterday</p> <p>15 afternoon regarding your inquiry as to the</p> <p>16 corporate stock book of Eber Brothers and Co.,</p> <p>17 Inc. I am fairly confident that they do not have</p> <p>18 it. However, to be sure, Wendy will be in</p> <p>19 Rochester for the fourth of July weekend and will</p> <p>20 double check."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. So your lawyer told counsel for</p> <p>24 Canandaigua National Bank that you and Wendy could</p> <p>25 not locate the corporate stock book; correct?</p>
<p style="text-align: right;">Page 151</p> <p>1 L. Eber</p> <p>2 exhibits. This is 40 and 41.</p> <p>3 (Plaintiffs' Exhibit 40, a e-mail</p> <p>4 dated June 2, 2017 from Jim Vazzana to</p> <p>5 Lorisa LaRocca Bates number CNB-PL 0022,</p> <p>6 marked for identification, as of this date.)</p> <p>7 (Plaintiffs' Exhibit 41, an e-mail</p> <p>8 dated August 18, 2017 from Jim Vazzana to</p> <p>9 Lorisa LaRocca, marked for identification,</p> <p>10 as of this date.)</p> <p>11 Q. Exhibit 40 is a e-mail dated June 2,</p> <p>12 2017 from Jim Vazzana to Lorisa LaRocca Bates</p> <p>13 number CNB-PL 0022.</p> <p>14 Do you recognize that e-mail?</p> <p>15 MR. RAMSEY: You are not suggesting he</p> <p>16 was copied on it; right?</p> <p>17 MR. BROOK: No.</p> <p>18 A. I'm not. I wasn't copied.</p> <p>19 Q. Nonetheless, are you aware that your</p> <p>20 lawyer sent an e-mail along these lines to Lorisa</p> <p>21 LaRocca who was representing Canandaigua National</p> <p>22 Bank?</p> <p>23 A. You know, I think it's possible. I</p> <p>24 don't remember but it is very possible.</p> <p>25 Q. Was Jim Vazzana representing your</p>	<p style="text-align: right;">Page 153</p> <p>1 L. Eber</p> <p>2 MR. RAMSEY: Form.</p> <p>3 A. I don't remember that. It's very</p> <p>4 confusing and I just don't remember.</p> <p>5 Q. Did you have an understanding as to</p> <p>6 why Canandaigua National Bank wanted the corporate</p> <p>7 stock book?</p> <p>8 A. No.</p> <p>9 Q. Please turn to Exhibit 41 which is an</p> <p>10 e-mail dated August 18, 2017 again from Jim</p> <p>11 Vazzana to Lorisa LaRocca this time with you and</p> <p>12 your daughter Wendy copied on it.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. This has Bates numbers CNB-PL 0006.</p> <p>16 And this e-mail reads "Lorisa, have you or your</p> <p>17 client ever found the stock register on Eber</p> <p>18 Brothers Co. My client indicated in June that she</p> <p>19 would make a special trip to Rochester in July to</p> <p>20 see if she could find them. Please advise."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Do you remember this e-mail?</p> <p>24 A. I got it.</p> <p>25 Q. Do you remember seeing it?</p>

<p style="text-align: right;">Page 190</p> <p>1 L. Eber</p> <p>2 any debts that were owed directly by Eber</p> <p>3 Connecticut; correct?</p> <p>4 MR. RAMSEY: Form.</p> <p>5 A. I don't -- I can't give you an answer.</p> <p>6 I don't -- I would like to give you an answer but</p> <p>7 I don't have an answer for you.</p> <p>8 Q. So was it your understanding that Eber</p> <p>9 Connecticut was weighed down by the debt of Eber</p> <p>10 Brothers Wine and Liquor Corp.?</p> <p>11 MR. RAMSEY: Form.</p> <p>12 A. Eber Wine and Liquor Corp. yeah, it</p> <p>13 could have -- it didn't help it. If it cleaned up</p> <p>14 the debt and made a cleaner statement so we could</p> <p>15 go to a bank and they could lend us money based on</p> <p>16 the inventory or receivables of Connecticut.</p> <p>17 Q. And what were the debts that Eber</p> <p>18 Brothers Wine and Liquor Corp. had at the time</p> <p>19 that you were trying to clean up the balance</p> <p>20 sheet?</p> <p>21 A. I don't remember.</p> <p>22 Q. There was PBGC; right?</p> <p>23 A. Yes.</p> <p>24 Q. There was the Teamsters?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 192</p> <p>1 L. Eber</p> <p>2 Q. Exhibit 44 is a copy of a summons and</p> <p>3 complaint dated February 21, 2012 bearing Bates</p> <p>4 number KSH 00070 through 83.</p> <p>5 Do you recognize this document?</p> <p>6 A. Yes.</p> <p>7 Q. What is it?</p> <p>8 A. It is summons before a State Supreme</p> <p>9 Court. It is on an action for the foreclosure.</p> <p>10 Q. Who is the listed plaintiff here?</p> <p>11 A. Alexbay.</p> <p>12 Q. That's your company; right?</p> <p>13 A. Yes.</p> <p>14 Q. Who is the lawsuit against?</p> <p>15 A. Eber Wine and Liquor, Southern Eber</p> <p>16 Wine and Liquor Metro, John Doe et cetera.</p> <p>17 Q. So does this refresh your recollection</p> <p>18 that in February 2012 you did authorize the filing</p> <p>19 of a lawsuit on behalf of Alexbay against Eber</p> <p>20 Brothers Wine and Liquor Corp.?</p> <p>21 A. Yes.</p> <p>22 Q. At the time this lawsuit was filed,</p> <p>23 had you resigned as president of Eber Brothers</p> <p>24 Wine and Liquor Corp.?</p> <p>25 A. I believe so.</p>
<p style="text-align: right;">Page 191</p> <p>1 L. Eber</p> <p>2 Q. There was Harris Beach?</p> <p>3 A. Yes.</p> <p>4 Q. Anyone else?</p> <p>5 A. Benderson.</p> <p>6 Q. What is Benderson?</p> <p>7 A. A real estate company.</p> <p>8 Q. How much was owed to them</p> <p>9 approximately?</p> <p>10 A. It was over two hundred thousand I</p> <p>11 believe at the time.</p> <p>12 Q. Anyone else?</p> <p>13 A. There could have been. I just can't</p> <p>14 remember now.</p> <p>15 Q. At some point in February 2012 you</p> <p>16 through Alexbay filed a lawsuit against Eber</p> <p>17 Brothers Wine and Liquor Corp.; correct?</p> <p>18 A. I don't remember.</p> <p>19 MR. BROOK: Let's go to our next</p> <p>20 exhibit. Up to 44 I think.</p> <p>21 (Plaintiffs' Exhibit 44, a copy of a</p> <p>22 summons and complaint dated February 21,</p> <p>23 2012 bearing Bates number KSH 00070 through</p> <p>24 83, marked for identification, as of this</p> <p>25 date.)</p>	<p style="text-align: right;">Page 193</p> <p>1 L. Eber</p> <p>2 Q. How did you resign? How did you go</p> <p>3 about doing this?</p> <p>4 A. I believe there was a board meeting</p> <p>5 and I submitted my resignation to it. I don't</p> <p>6 actually remember going. You know, how many years</p> <p>7 ago that was. It was when, in 2012 or before</p> <p>8 that.</p> <p>9 Q. It is your recollection that it</p> <p>10 happened at a board meeting; correct?</p> <p>11 A. I believe so, yes. To the best of my</p> <p>12 recollection.</p> <p>13 Q. Do you recall any board meetings of</p> <p>14 Eber Brothers Wine and Liquor Corp. within the two</p> <p>15 or three month period before this document Exhibit</p> <p>16 44 was filed?</p> <p>17 A. I don't remember. You know, it could</p> <p>18 have been at a board meeting. I could have just</p> <p>19 submitted it. Going back I don't remember.</p> <p>20 Q. What do you mean by submitted it, what</p> <p>21 is it?</p> <p>22 A. Submitted a letter of resignation.</p> <p>23 Q. Do you recall ever signing a letter of</p> <p>24 resignation?</p> <p>25 A. I can't remember. I could have, but I</p>

<p style="text-align: right;">Page 194</p> <p>1 L. Eber</p> <p>2 don't remember the whole scenario of what</p> <p>3 happened.</p> <p>4 Q. It had to have been a pretty big deal</p> <p>5 when you resigned as president of your father's</p> <p>6 company; correct?</p> <p>7 MR. CALIHAN: Objection to form.</p> <p>8 MR. RAMSEY: Form.</p> <p>9 Q. Was that an emotional moment for you?</p> <p>10 A. With what we have been through nothing</p> <p>11 is emotional anymore.</p> <p>12 Q. So this was just strictly business; is</p> <p>13 that right?</p> <p>14 MR. RAMSEY: Form.</p> <p>15 Q. You are nodding.</p> <p>16 Is that a yes?</p> <p>17 A. It was part of the nightmare that was</p> <p>18 going on with all these companies and trying to</p> <p>19 keep them from being liquidated to survive.</p> <p>20 Q. What was your understanding as to what</p> <p>21 might cause the business to be liquidated since</p> <p>22 you were afraid of that?</p> <p>23 A. Lack of funds to pay the bills, pay</p> <p>24 the suppliers and you are out.</p> <p>25 Q. So it was your understanding that</p>	<p style="text-align: right;">Page 196</p> <p>1 L. Eber</p> <p>2 National Bank to replace Wells Fargo?</p> <p>3 A. We found them for a small amount. I</p> <p>4 think it was a million five. That wasn't enough.</p> <p>5 We needed more and we needed something that wasn't</p> <p>6 renewed every month or so. We needed somebody to</p> <p>7 give us a commitment and that's why we had to</p> <p>8 clean up the balance sheet to make it look like</p> <p>9 for a bank to want to loan us money.</p> <p>10 Q. Returning to Exhibit 44 in front of</p> <p>11 you.</p> <p>12 Did you review this before it was</p> <p>13 filed?</p> <p>14 A. I don't remember, but I must have.</p> <p>15 You know, I can't remember all these things 2012.</p> <p>16 MR. RAMSEY: Just wait for a question.</p> <p>17 Q. So why did you file this lawsuit?</p> <p>18 A. Why did I file what lawsuit?</p> <p>19 Q. The one that we are looking at here</p> <p>20 Exhibit 44.</p> <p>21 A. Oh, the foreclosure?</p> <p>22 Q. Yes.</p> <p>23 MR. CALIHAN: Objection to form.</p> <p>24 MR. RAMSEY: Form.</p> <p>25 A. I filed it to solidify showing that I</p>
<p style="text-align: right;">Page 195</p> <p>1 L. Eber</p> <p>2 there were certain creditors of the company that</p> <p>3 could have forced a liquidation?</p> <p>4 A. Possibly that or we had to get a bank,</p> <p>5 we had to get bank loans. We had to get a bank</p> <p>6 that would give us money to survive because you</p> <p>7 saw early on Wells Fargo foreclosed on it and that</p> <p>8 put us right out of business in New York.</p> <p>9 Q. When was that?</p> <p>10 A. It was in two thousand and what, five,</p> <p>11 six. I don't have the exact date.</p> <p>12 Q. So you are referring to Wells Fargo</p> <p>13 foreclosing on Eber Metro?</p> <p>14 A. On Eber period. All the Eber</p> <p>15 companies.</p> <p>16 Q. Was there actually like a judicial</p> <p>17 proceeding relating to that?</p> <p>18 A. Not that I know of. They just</p> <p>19 notified us that our loan was in default and we</p> <p>20 were in a workout.</p> <p>21 Q. So it was something short of actually</p> <p>22 initiating foreclosure proceedings in court; is</p> <p>23 that right?</p> <p>24 A. I don't remember being in court on it.</p> <p>25 Q. And then you found Canandaigua</p>	<p style="text-align: right;">Page 197</p> <p>1 L. Eber</p> <p>2 wasn't doing anything underhanded. There would be</p> <p>3 a public record of what I had done on advice of</p> <p>4 counsel.</p> <p>5 Q. Which counsel was that?</p> <p>6 A. Michael Beyma.</p> <p>7 Q. And was it your understanding from the</p> <p>8 outset that Eber Wine and Liquor and Eber Metro</p> <p>9 were going to consent to what you requested?</p> <p>10 A. We filed it and it took its course.</p> <p>11 Q. Had you discussed the lawsuit before</p> <p>12 you filed it with Wendy, your daughter?</p> <p>13 A. I probably had a discussion with her</p> <p>14 of it. I don't remember. I was on advice. My</p> <p>15 discussion was with Michael Beyma.</p> <p>16 Q. Was Michael Beyma also representing</p> <p>17 Eber Brothers Wine and Liquor at the time?</p> <p>18 A. I don't think so. I think he just --</p> <p>19 I don't remember. I don't remember that, but I</p> <p>20 remember that's who I worked with the lawyer on</p> <p>21 this. He had another fellow Brueckner, if you</p> <p>22 look at the bottom, who wasn't with them anymore.</p> <p>23 Q. Who paid the legal fees of Michael</p> <p>24 Beyma and Brueckner?</p> <p>25 A. I did.</p>

<p style="text-align: right;">Page 250</p> <p>1 L. Eber</p> <p>2 statements value the equity of Eber Connecticut at</p> <p>3 in late 2011 and early 2012?</p> <p>4 A. No.</p> <p>5 Q. Do you think that information is</p> <p>6 material to understanding what the value of Eber</p> <p>7 Connecticut might have been at that time?</p> <p>8 MR. RAMSEY: Form.</p> <p>9 A. I think you would have to ask an</p> <p>10 accountant for that, of that. I can't answer for</p> <p>11 you.</p> <p>12 Q. I want to ask you now about your</p> <p>13 relationship with Mike Gumaer.</p> <p>14 When did you first meet him?</p> <p>15 A. After my father died.</p> <p>16 Q. So you had not interacted with him</p> <p>17 before then?</p> <p>18 A. Never.</p> <p>19 Q. What was the nature of your</p> <p>20 relationship with Mike Gumaer during the first few</p> <p>21 years after your father died?</p> <p>22 A. He worked, I worked very close with</p> <p>23 him. He educated me to the trust and to</p> <p>24 transactions you know in settling an estate, my</p> <p>25 father's estate.</p>	<p style="text-align: right;">Page 252</p> <p>1 L. Eber</p> <p>2 Gumaer's legal advice.</p> <p>3 A. A will.</p> <p>4 Q. Did you pay him anything for that?</p> <p>5 A. I don't remember if he could have sent</p> <p>6 me to someone else in his firm that charged me for</p> <p>7 it.</p> <p>8 Q. Was Mr. Gumaer compensated for his</p> <p>9 role as a co-trustee of the trust?</p> <p>10 A. He didn't take any money from the</p> <p>11 trust. He was paid by the company and the reason</p> <p>12 he didn't take any money from the trust because it</p> <p>13 would have reduced the income to the beneficiaries</p> <p>14 of the trust. So he was paid by the company.</p> <p>15 Q. Was there ever any sort of</p> <p>16 documentation where Mr. Gumaer agreed to waive his</p> <p>17 right to compensation as a director, I meant a</p> <p>18 trustee? I am correcting myself.</p> <p>19 A. I don't believe so. In my father's</p> <p>20 will I waived my compensation as an executor of</p> <p>21 his estate.</p> <p>22 Q. What do you mean you waived?</p> <p>23 A. I served for free where the other</p> <p>24 executors, the bank and Mr. Gumaer, were paid, you</p> <p>25 know, whatever the law was.</p>
<p style="text-align: right;">Page 251</p> <p>1 L. Eber</p> <p>2 Q. At any point in time or -- withdrawn.</p> <p>3 At that time Mike Gumaer was a partner</p> <p>4 in the law firm of Nelson Hargrave.</p> <p>5 A. Nixon.</p> <p>6 Q. Nixon Hargrave?</p> <p>7 A. Yes.</p> <p>8 Q. Did you or Eber Brothers retain him as</p> <p>9 a lawyer for the company?</p> <p>10 A. Yes.</p> <p>11 Q. Did you ever retain him as your</p> <p>12 personal attorney?</p> <p>13 A. I used him as a personal attorney.</p> <p>14 Q. When did you start doing that?</p> <p>15 A. After my father died.</p> <p>16 Q. What kinds of things did you retain</p> <p>17 him for?</p> <p>18 A. He advised me legally. Send me</p> <p>19 different law specialists in his firm or what have</p> <p>20 you. Everything. Anything I had I needed a legal</p> <p>21 opinion on I would go through him.</p> <p>22 Q. And for personal matters?</p> <p>23 A. Both personal and business, yes.</p> <p>24 Q. So for personal matters give an</p> <p>25 example of something where you relied on Mr.</p>	<p style="text-align: right;">Page 253</p> <p>1 L. Eber</p> <p>2 Q. Was that your decision to serve for</p> <p>3 free?</p> <p>4 A. It was my father's wish and I observed</p> <p>5 it.</p> <p>6 Q. When did Mr. Gumaer retire from Nixon</p> <p>7 Hargrave or Nixon Peabody as it became?</p> <p>8 MR. CALIHAN: Objection to form.</p> <p>9 A. It is in there. I don't remember the</p> <p>10 date.</p> <p>11 MR. BROOK: What's the basis for the</p> <p>12 objection?</p> <p>13 MR. CALIHAN: I am not sure which</p> <p>14 relationship with the firm you are referring</p> <p>15 to. I think there were several but I am</p> <p>16 not --</p> <p>17 MR. BROOK: Understood.</p> <p>18 A. Thank you.</p> <p>19 MR. BROOK: Let's go to another</p> <p>20 exhibit. This is 47.</p> <p>21 (Plaintiffs' Exhibit 47, a two-page</p> <p>22 letter on the letterhead for Elliot W.</p> <p>23 Gumaer, Jr. dated January 2, 2001 Bates</p> <p>24 stamped January 8, 2001 and Bates number EB</p> <p>25 00001556 to 57, marked for identification,</p>

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<p style="text-align: right;">Page 466</p> <p>1 L. EBER</p> <p>2 competency that he had been before?</p> <p>3 A I believe it's taken a lot out of him and</p> <p>4 slowed him up.</p> <p>5 Q And you were relying on others at that</p> <p>6 point.</p> <p>7 A Others, but I always had a lot of respect</p> <p>8 for Mike.</p> <p>9 Q And when you said that you continued to</p> <p>10 view him as the attorney for you up until the time</p> <p>11 of his death, is it fair to say that that testimony</p> <p>12 by you reflected a sense of loyalty to Mike Gumaer</p> <p>13 as much as anything else?</p> <p>14 A Loyalty and respect.</p> <p>15 MR. CALIHAN: That's all questions that I</p> <p>16 have.</p> <p>17 CONTINUED EXAMINATION BY MR. BROOK:</p> <p>18 Q I do have another document that was</p> <p>19 produced from the last time you were here. This the</p> <p>20 was previously marked as Plaintiff's Exhibit 94.</p> <p>21 This is a set of documents, regarding looks like</p> <p>22 payments that were made to you by Southern Wine &</p> <p>23 Spirits, LLC. Do you recognize those documents?</p> <p>24 A Yes.</p> <p>25 Q What are they?</p>	<p style="text-align: right;">Page 468</p> <p>1 L. EBER</p> <p>2 Q And what kind of credit card is that?</p> <p>3 A My ordinary personal one.</p> <p>4 Q So it's a --</p> <p>5 A It's not a corporate card. It's my own</p> <p>6 personal one.</p> <p>7 Q And do you use that for anything other</p> <p>8 than Southern expenses?</p> <p>9 A Not usually.</p> <p>10 Q But sometimes?</p> <p>11 A It depends. If I lost another credit card</p> <p>12 I might use it but I try to keep it with the</p> <p>13 Southern expenses.</p> <p>14 Q Approximately how much in expenses -- let</p> <p>15 me withdraw that. In connection with your work for</p> <p>16 Southern have you always tracked expenses basically</p> <p>17 the same way?</p> <p>18 A Yes.</p> <p>19 Q And do you bill Southern for all the</p> <p>20 expenses that you incur?</p> <p>21 MR. RAMSEY: Form.</p> <p>22 A Expenses I incur on their business.</p> <p>23 Q On their business. Are there any expenses</p> <p>24 you incur in connection with your consulting work</p> <p>25 that you don't bill to Southern?</p>
<p style="text-align: right;">Page 467</p> <p>1 L. EBER</p> <p>2 A They're what they are. They're paying for</p> <p>3 services that I have provided them.</p> <p>4 Q And they're reimbursing you for expenses?</p> <p>5 A Yes.</p> <p>6 Q What kind of expenses did you incur in</p> <p>7 connection with your consulting work for Southern?</p> <p>8 A Travel to New York to Syosset, Long</p> <p>9 Island, to 800 3rd Avenue, to Albany, to Miami for</p> <p>10 meetings, to legislative districts throughout New</p> <p>11 York State.</p> <p>12 Q And how did you keep track of those</p> <p>13 expenses?</p> <p>14 A I filed reports. I get receipts and filed</p> <p>15 reports and send them into him.</p> <p>16 Q Did you also incur expenses in connection</p> <p>17 with your work for Eber Connecticut?</p> <p>18 A Yes.</p> <p>19 Q How did you keep track of those expense?</p> <p>20 A Same way.</p> <p>21 Q Do you have separate credit cards?</p> <p>22 A Yes.</p> <p>23 Q Did you have a specific credit card that</p> <p>24 you use just for Southern?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 469</p> <p>1 L. EBER</p> <p>2 A That I don't bill?</p> <p>3 Q Yeah.</p> <p>4 A There are things that I do for</p> <p>5 governmental work that I feel helps my position as a</p> <p>6 lobbyist and a governmental affairs person that I</p> <p>7 paid for personally.</p> <p>8 Q What kind of expenses are those?</p> <p>9 A Donations to legislators or seminar if I</p> <p>10 went to or meetings, or what have you, that could</p> <p>11 help me.</p> <p>12 Q Have you acquired any significant assets</p> <p>13 for your business, for your consulting business?</p> <p>14 A Assets from my consulting?</p> <p>15 Q Yes.</p> <p>16 A No.</p> <p>17 Q So you don't have a car specific to your</p> <p>18 consulting business?</p> <p>19 A No.</p> <p>20 Q And according to these documents you</p> <p>21 received reimbursement for \$118,371.21 expenses from</p> <p>22 Southern in the year 2018. Does that sound about</p> <p>23 right?</p> <p>24 A If that's what it says.</p> <p>25 Q Approximately how much time did you spend</p>

<p style="text-align: right;">Page 470</p> <p>1 L. EBER</p> <p>2 doing consulting work for Southern in 2018?</p> <p>3 A I don't remember the time. It's whatever</p> <p>4 had to be done. I could work 24 hours. I could</p> <p>5 work a whole week. I could work two, three days.</p> <p>6 It depends what's going on.</p> <p>7 Q Do you ever have conflicts in terms of</p> <p>8 what work to do for Southern versus Eber</p> <p>9 Connecticut?</p> <p>10 MR. RAMSEY: Form.</p> <p>11 A Sometimes.</p> <p>12 Q And how do you --</p> <p>13 A I do the best I can to do both.</p> <p>14 Q Would you say you do more work for</p> <p>15 Southern or more work from Eber Connecticut?</p> <p>16 MR. RAMSEY: Form.</p> <p>17 A I think it's a moot question. I couldn't</p> <p>18 answer it. I do what I have to for Southern and I</p> <p>19 do it when I'm needed at Connecticut.</p> <p>20 Q Has working for Southern impacted your</p> <p>21 ability to provide services for Eber Connecticut?</p> <p>22 MR. RAMSEY: Form.</p> <p>23 A No, it hasn't impacted it. It's helped</p> <p>24 Connecticut.</p> <p>25 Q How so?</p>	<p style="text-align: right;">Page 472</p> <p>1 L. EBER</p> <p>2 Q What import company was that?</p> <p>3 A Part -- it was Slocum. It was just -- the</p> <p>4 company was part of Slocum.</p> <p>5 Q It was a Slocum entity?</p> <p>6 A It was part of -- it was not an entity.</p> <p>7 It was just lines that Slocum had that they sold</p> <p>8 some of the wine in New York. That ceased.</p> <p>9 Q When did that cease?</p> <p>10 A Quite a few years ago, it lost a lot of</p> <p>11 money.</p> <p>12 Q Why did it cease?</p> <p>13 A Because it lost a lot of money.</p> <p>14 Q So it was a decision that you made to stop</p> <p>15 that?</p> <p>16 A Yes.</p> <p>17 Q Okay. Was it roughly at the same time</p> <p>18 that you started consulting for Southern?</p> <p>19 A No.</p> <p>20 Q So help me understand then, time wise,</p> <p>21 approximately when it was that the sales in New York</p> <p>22 stopped?</p> <p>23 A I don't remember the exact date but it was</p> <p>24 not profitable and Connecticut needed to watch</p> <p>25 Connecticut. The employees, I wanted them all to</p>
<p style="text-align: right;">Page 471</p> <p>1 L. EBER</p> <p>2 A There are suppliers that they have that I</p> <p>3 have been able to get to know and been able to get</p> <p>4 their lines for Connecticut.</p> <p>5 Q Which suppliers?</p> <p>6 A I don't remember the names but there are a</p> <p>7 bunch of them.</p> <p>8 Q Can you name even one?</p> <p>9 MR. RAMSEY: Form.</p> <p>10 A I just -- I don't want to get the wrong.</p> <p>11 MR. RAMSEY: If you remember you remember.</p> <p>12 A I can't remember there are -- it isn't</p> <p>13 exact. It's a relationship that they know you and</p> <p>14 they come and see you because I met them in New York</p> <p>15 and talked to them.</p> <p>16 Q And just I want to clarify something that</p> <p>17 came up in the deposition of Bob Lowenthal.</p> <p>18 (phonetic) Does Eber Connecticut have any business</p> <p>19 in New York?</p> <p>20 A Not anymore.</p> <p>21 Q Did it at one point in time?</p> <p>22 A They did.</p> <p>23 Q When was that?</p> <p>24 A When we first took it over they had an</p> <p>25 import company that they sold wine to New York.</p>	<p style="text-align: right;">Page 473</p> <p>1 L. EBER</p> <p>2 spend their time not sending, selling wine to other</p> <p>3 states but spend their time in building the</p> <p>4 Connecticut business.</p> <p>5 Q I'm just trying to get, you know, a</p> <p>6 ballpark sense, you best recollection?</p> <p>7 A I couldn't give you the date. I just</p> <p>8 don't remember it.</p> <p>9 Q Was it before you started consulting for</p> <p>10 Southern?</p> <p>11 MR. RAMSEY: Form.</p> <p>12 A Before I started?</p> <p>13 Q Yes, that you stopped. Did Eber</p> <p>14 Connecticut stop selling in New York before --</p> <p>15 A No, it was after.</p> <p>16 Q Approximately how long after?</p> <p>17 A I don't remember.</p> <p>18 Q Years after?</p> <p>19 MR. RAMSEY: Form.</p> <p>20 A Could have been a couple of years. I</p> <p>21 don't remember.</p> <p>22 Q Did you ever discuss Eber Connecticut's</p> <p>23 sales in New York with Southern?</p> <p>24 A No.</p> <p>25 Q Did Eber Connecticut sales in New York</p>